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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,686	05/03/2007	Norbert Deutloff	B118.12-0029	9504
27367 7590 12/03/2010 WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402				
EXAMINER				
BOWES, STEPHEN M				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
12/03/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/596,686	Applicant(s) DEUTLOFF ET AL.
Examiner STEPHEN BOWES	Art Unit 3657

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-11, 13-16, 19, 22, 24 and 25
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art Unit 3657

/STEPHEN BOWES/
Examiner, Art Unit 3657

As per claim 1, applicant argues that "If, however, the movable member 8 was also enabled to rotate, how then should the displacement of movable member 8, which is intended to pull the brake cable, be accomplished?" (Page 3, paragraph 2). The hollow shaft being enabled to rotate only requires the capability, not the action. Movable member 8 is not splined to a fixed component or otherwise prevented from rotation, and meets the claim limitation of being capable of rotation.

Applicant argues "From the drawings of the present application, as, for example, supplied in Figures 3 and 5, the features in lines 5 and 6 of presently pending independent claim 1 are very clearly to be construed as enabling the spindle shaft itself to advance" (Page 3, paragraph 3). Applicant further argues "This is immediately clear from Figure 1, because actuation of the brake cable requires shifting movement to pull it, but the drive screw 36 does not exhibit any such shifting movement" (Page 4, paragraph 1). Applicant claims "that enables the spindle shaft to advance and to actuate a brake cable" (Claim 1, lines 8-9). The claim has been interpreted the spindle shaft being used to move the brake cable forward and backwards, not the shaft itself. The claim language only requires the function of brake cable movement and not the specific means.

Applicant argues that "in the Office Action, it has been argued that there would be a torque-transmitting connection between the drive screw 36 and the movable member 8 of Arnold et al., which would be formed by nut 42 and the threaded portion 42a" (Page 4, paragraph 3). Applicant claims "a torque-transmitting connection between the remotely-operated drive and the hollow shaft which enables the hollow shaft to move axially relative to the remotely-operated drive". The threaded connection between nut 42a and movable member 8 is necessarily stiff enough to transmit torque and is located between the electric motor 50 and the outer external portions of movable member 8.

Arguments regarding claim 26 were non-specific.